REMARKS/ARGUMENTS

Claims 1-64 were pending in this application before the present response. In the Office Action dated September 19, 2008, claims 1-64 stand rejected under 35 U.S.C. § 103.

This paper rewrites claims 1-3, 18, 28, 42, and 56-60. Thus, claims 1-64 remain pending in this application. Applicants respectfully request reconsideration and allowance of all pending claims, in view of the following remarks.

Claim Rejections – 35 U.S.C. § 103

Claims 1-4, 9, 12-13, 15, 18-19, 22-23, 26, 28, 29-31, 33, 35-36, 42-45, 47, 49, and 56-64

Claims 1-4, 9, 12-13, 15, 18-19, 22-23, 26, 28, 29-31, 33, 35-36, 42-45, 47, 49, and 56-64 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, et al., U.S. Patent Application Publication Number 2003/0185238 (hereinafter "Strasser"), in view of Kelly et al., U.S. Patent Application Publication Number 2006/0093315 (hereinafter "Kelly"). The Applicants respectfully traverse this rejection.

The differences between the presently claimed invention and the Strasser and Kelly references, taken either alone or in combination, are nonobvious. As reiterated by the Supreme Court in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. __, 82 USPQ.2d 1385, 1391 (2007), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Thus, the analysis of patentability under 35 U.S.C. 103 requires consideration of four factors: (i) the scope and content of the prior art, (ii) the differences between the prior art and the claims as a whole, (iii) the level of ordinary skill in the art, and (iv) objective evidence of non-obviousness. *Graham* at 13. Combining elements from different prior art references in hindsight is to be avoided.

The Strasser reference describes a system and methods for maintaining a timing relationship among data packets associated with a single program of a multiple program transport stream. As described in Strasser, a transport stream parser receives a multiple program transport stream that includes multimedia data packets from multiple programs.

The multiple program transport stream organizes the programs serially as shown in FIG. 2, element 105. The transport stream parser synchronizes the multiple program transport stream with a program clock reference and selects **only** data packets that pertain to a subset of the data for a single program transport stream to produce a resulting single program transport stream synchronized with the system clock. Thus, since **the data packets that do not pertain to the selected subset are dropped**, the single program transport stream does not include all of the data that was in the multiple program transport stream.

The Office Action acknowledges that the Strasser reference does not describe, for a plurality of presentation groups in the first content, generating a respective private transport packet that includes metadata derived from at least some of the first content portions in the presentation group. The Office Action also acknowledges that the Strasser reference fails to teach the metadata containing information allowing modified production of the first content in a manner that is different than a first production of the first content defined by the first content format. To make up for these shortcomings, the Examiner relies on the Kelly reference.

The Kelly reference describes various methods for producing an edited MPEG audio/video stream from first and second streams recorded in a transport-stream format normally intended for broadcast purposes. FIG. 7 in Kelly illustrates the key features and structure of the MPEG-2 transport stream format. The transport stream in Kelly is a continuous stream of transport packets labeled T-PKT, where each T-PKT includes a header portion and a payload portion. The header portion includes a PID field that indicates one elementary stream to which that packet relates, these being interleaved in units of transport packets with plentiful other streams. The payload portion, as indicated by bytes DAT-0 to DAT-N in FIG. 7, for successive transport packets that have the same PID are concatenated into a stream, and this stream carries packetized elementary stream packets PES-PKT, which are further defined in the MPEG-2 specification. Thus, as taught by Kelly, the 'Program 1' Transport packets **"T-PKTs" are not generated, but rather the 'Program 1' Transport packets are part of the transport stream**. Also, as taught by Kelly, the **DAT-0 to DAT-N payload portion of the T-PKT is the data in the T-PKT, not metadata**.

In contrast, the presently claimed invention, as recited in independent claims 1-3, 18, 28, 42, and 56-60, describes "generating a private transport packet for each of a plurality of the presentation groups, each private transport packet including metadata derived from at least some of the first content portions in the respective presentation group". The presently claimed invention further describes "creating second content by combining the first content and the private transport packet for each presentation group". Thus, the presently claimed invention receives first content, analyzes the first content to detect presentation groups, generates a private transport packet for a plurality of the presentation groups, and creates second content that combines the first content and the generated private transport packets.

The Strasser and Kelly references, taken either alone or in combination, do not describe generating a private transport packet for each of a plurality of the presentation groups, each private transport packet including metadata derived from at least some of the first content portions in the respective presentation group. Furthermore, the Strasser and Kelly references, taken either alone or in combination, do not describe creating second content by combining the first content and the private transport packet for each presentation group. Thus, Kelly does not make up for the shortcomings of Strasser because it does not describe, for a plurality of presentation groups in the first content, generating a respective private transport packet that includes metadata derived from at least some of the first content portions in the presentation group. Kelly also does not describe the metadata containing information allowing modified production of the first content in a manner that is different than a first production of the first content defined by the first content format.

Since Kelly fails to supply features missing from Strasser, the combination of Strasser and Kelly cannot suggest the presently claimed invention and cannot render the claims obvious. Thus, no matter how Strasser and Kelly may be combined (even assuming, arguendo, that one of ordinary skill in the art would be led to combine them) the resulting combination is not the invention recited in independent claims 1-3, 18, 28, 42, and 56-60.

Furthermore, the Strasser reference **teaches away** from the presently claimed invention. A person of ordinary skill in the art considering the Strasser reference in view

of the Kelly reference would produce a single program transport stream from a multiple program transport stream by dropping data packets from the multiple program transport stream. Thus, the Strasser reference teaches away from the presently claimed invention of "creating second content by combining the first content and the private transport packet for each presentation group". Based on the disclosure in Strasser, the person of ordinary skill in the art would be discouraged from creating second content by combining the first content and the private transport packet for each presentation group. Thus, a *prima facie* conclusion of obviousness cannot be drawn from the combination of the Strasser and Kelly references. Applicants respectfully submit that Strasser fails to provide a basis for a rejection under 35 U.S.C. § 103, at least because Strasser teaches away from creating second content by combining the first content and the private transport packet for each presentation group. Because Strasser is an improper basis for rejecting Applicants' claims, the combination of Strasser with Kelly, or with other prior art references, also is an improper basis for rejecting Applicants' claims.

For at least the aforementioned reasons, independent claims 1-3, 18, 28, 42, and 56-60 are patentable over the Strasser and Kelly references, either taken alone or in combination. Thus, the Examiner should withdraw the 35 U.S.C. § 103 obviousness rejection as to independent claims 1-3, 18, 28, 42, and 56-60.

Claims 4-17, 19-27, 29-41, 43-55, and 61-64 depend from either independent claim 1-3, 18, 28, 42, or 56-60. For the previously stated reasons, independent claims 1-3, 18, 28, 42, and 56-60 are allowable. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 4-17, 19-27, 29-41, 43-55, and 61-64.

Claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55

Claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of Barton, et al., U.S. Patent Number 6,233,389 (hereinafter "Barton"). The Applicants respectfully traverse this rejection.

Claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55 depend, respectively, from independent claims 3, 18, 28, and 42. For at least the aforementioned reasons, claims 3, 18, 28, and 42 are patentable over the Strasser and Kelly references, either taken alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 5-8, 10, 14, 17, 20-21, 24, 27, 34, 37-41, 48, and 50-55.

Furthermore, the Barton reference describes a multimedia time warping system that allows the user to store selected television broadcast programs while the user is simultaneously watching or reviewing another program. However, the Barton reference, like the Strasser and Kelly references, also does not describe generating a private transport packet for a plurality of the presentation groups, each private transport packet including metadata derived from at least some of the first content portions in the presentation group, the metadata containing information allowing modified production of the first content in a manner that is different than a first production of the first content defined by the first content format as described in independent claims 3, 18, 28, and 42. Thus, the combination of Strasser, Kelly, and Barton, taken either alone or in combination, do not describe the presently claimed invention.

Claim 11

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of Kovacevic, U.S. Patent Application Publication Number 2002/0128823 (hereinafter "Kovacevic"). The Applicants respectfully traverse this rejection.

Claim 11 depends from independent claims 3. For at least the aforementioned reasons, claim 3 is patentable over the Strasser and Kelly references, either taken alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claim 11.

Furthermore, the Kovacevic reference describes a system and methods for processing digital audio stream data from received transport streams. However, the

Kovacevic reference, like the Strasser and Kelly references, also does not describe generating a private transport packet for a plurality of the presentation groups, each private transport packet including metadata derived from at least some of the first content portions in the presentation group, the metadata containing information allowing modified production of the first content in a manner that is different than a first production of the first content defined by the first content format as described in independent claim 3. Thus, the combination of Strasser, Kelly, and Kovacevic, taken either alone or in combination, do not describe the presently claimed invention.

Claims 16, 25, 32, and 46

Claims 16, 25, 32, and 46 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Strasser, in view of Kelly, and further in view of McLaren, et al., U.S. Patent Number 6,064,794 (hereinafter "McLaren"). The Applicants respectfully traverse this rejection.

Claims 16, 25, 32, and 46 depend, respectively, from independent claims 3, 18, 28, and 42. For at least the aforementioned reasons, claims 3, 18, 28, and 42 are patentable over the Strasser and Kelly references, either taken alone or in combination. Since any claim that depends from an allowable independent claim is also allowable, the Applicants respectfully submit that the Examiner should also withdraw this rejection as to dependent claims 16, 25, 32, and 46.

Furthermore, the McLaren reference describes a method for providing various reproduction modes by controlled selection of replay locations within a video stream or between separate video streams derived for selected trick-play speeds. However, the McLaren reference, like the Strasser and Kelly references, also does not describe generating a private transport packet for a plurality of the presentation groups, each private transport packet including metadata derived from at least some of the first content portions in the presentation group, the metadata containing information allowing modified production of the first content in a manner that is different than a first production of the first content defined by the first content format as described in independent claims 3, 18, 28, and 42. Thus, the combination of Strasser, Kelly, and

McLaren, taken either alone or in combination, do not describe the presently claimed invention.

Conclusion

In view of the foregoing discussion, Applicants believe that claims 1-64 are allowable over the cited art. Applicants respectfully submit that all pending claims are in full condition for allowance, and earnestly request that the Examiner withdraw all rejections of the claims and enter a Notice of Allowance at the earliest date possible.

Should the Examiner feel that there are any issues outstanding after consideration of this response; the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

Respectfully submitted,
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